

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

DARRELL J. CLARK, #58092-083,

Petitioner,

v.

ACTION NO. 2:20cv348

J. ANDREWS, Warden,  
Petersburg, FCI

Respondent.

**FINAL ORDER**

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2241. The petition arises out of a disciplinary proceeding that resulted in, among other things, a loss of 41 days of good conduct time. Petitioner alleges that the Federal Bureau of Prisons violated his right to due process by finding him guilty of the act charged based on insufficient and problematic evidence. He seeks expungement of the incident report at issue and restoration of the lost good conduct time.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. A Report of the Magistrate Judge was filed on January 28, 2021 recommending dismissal of the petition with prejudice. By copy of the Report, each party was advised of the party's right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the Magistrate Judge's Report and Recommendation and the time for filing objections has now expired.

Accordingly, the Court accepts the findings and recommendations set forth in the Report of the United States Magistrate Judge filed January 28, 2021 (ECF No. 10), and it is ORDERED that Respondent's Motion for Summary Judgment (ECF No. 7) is GRANTED, and that the petition be DENIED and DISMISSED with prejudice for Petitioner's failure to establish a due process violation.

Finding that the basis for dismissal of Petitioner's § 2241 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Petitioner is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within sixty (60) days** from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510. The Clerk shall mail a copy of this Final Order to petitioner and provide an electronic copy of the Final order to counsel of record for Respondent.

/s/

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Arenda L. Wright Allen  
United States District Judge

March 1, 2021  
Norfolk, Virginia